



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

JRE  
Docket No: 2269-02  
2 December 2002

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 21 November 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 5 March 1954. You received nonjudicial punishment on 27 September 1954 for the offense of absence without authority during the 13-16 September 1964 period. You absented yourself without authority once again on 25 October 1954, and you were declared a deserter on 6 December 1954. You were apprehended on 4 February 1955 by an agent of the FBI, and returned to military control. You were convicted by general court-martial on 14 March 1955 of the offense of desertion, and sentenced to confinement at hard labor for one year and six months, total forfeiture of pay and allowances for that period, and to be discharged with a bad conduct discharge. While confined, you disclosed that you had deserted because you had been denied emergency leave. Although you were diagnosed as suffering from an inadequate personality, there is no indication that you had a panic or other significant anxiety disorder. Upon the completion of appellate review of your conviction and sentence, you were separated from the Marine Corps on 1 May 1956, with a bad conduct discharge.

The Board noted that a bad conduct discharge takes precedence over and precludes disability

evaluation processing. In addition, it could not find any indication in the available records that you were unfit for duty by reason of physical disability at the time of your discharge from the Marine Corps, and it was not persuaded that your misconduct was related to an undiagnosed panic disorder. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director